

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL OWEN GARDNER,  
Plaintiff,  
v.  
A. MELERO, et al.,  
Defendants.

No. 1:24-cv-00933-JLT-SAB (PC)

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DISMISSAL OF  
CERTAIN DEFENDANTS

(ECF No. 15)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983.

On December 5, 2024, the Court screened Plaintiff's first amended complaint, and found that he stated a cognizable claim for deliberate indifference to safety against Defendants Hyatt, Alvarado, Geels, Guzman-Ramirez, Guillen, Torres-Rocha, D. Martinez, and Melero. (ECF No. 15.) However, Plaintiff failed to state a cognizable claim against any other named Defendants. Plaintiff was granted the opportunity to file an amended complaint or notify the Court of his intent to proceed on the claims found to be cognizable. (*Id.*) On January 2, 2025, Plaintiff filed a notice of intent to proceed on the claim found to be cognizable. (ECF No. 10.)

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Accordingly, it is HEREBY RECOMMENDED that:

1. This action proceed on Plaintiff's deliberate indifference claim against Defendants Hyatt, Alvarado, Geels, Guzman-Ramirez, Guillen, Torres-Rocha, D. Martinez, and Melero; and
2. All other Defendants be dismissed from the action for failure to state a cognizable claim for relief.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may file written objections with the Court, limited to 15 pages, including exhibits. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: **January 6, 2025**



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STANLEY A. BOONE  
United States Magistrate Judge